

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1219 be amended to read as follows:

- 1       Page 1, between the enacting clause and line 1, begin a new
- 2       paragraph and insert:
- 3       "SECTION 1. IC 6-8.1-8-8.7, AS ADDED BY P.L.226-2007,
- 4       SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5       UPON PASSAGE]: Sec. 8.7. (a) The department shall operate a data
- 6       match system with each financial institution doing business in Indiana.
- 7       (b) Each financial institution doing business in Indiana shall provide
- 8       information to the department on all individuals:
- 9       (1) who hold one (1) or more accounts with the financial
- 10       institution; and
- 11       (2) upon whom a levy may be issued by the department or a
- 12       county treasurer.
- 13       (c) To provide the information required under subsection (b), a
- 14       financial institution shall do one (1) of the following:
- 15       (1) Identify individuals by comparing records maintained by the
- 16       financial institution with records provided by the department by:
- 17       (A) name; and
- 18       (B) either:
- 19       (i) Social Security number; or
- 20       (ii) tax identification number.
- 21       (2) Comply with IC 31-25-4-31(c)(2). The child support bureau
- 22       established by IC 31-25-3-1 shall regularly make reports
- 23       submitted under IC 31-25-4-31(c)(2) ~~available~~ **accessible** to the
- 24       department or its agents for use only in tax judgment and levy
- 25       administration.
- 26       (d) The information required under subsection (b) must:
- 27       (1) be provided on a quarterly basis; and
- 28       (2) include the:
- 29       (A) name;
- 30       (B) address of record; and

- 1 (C) either:
- 2 (i) the Social Security number; or
- 3 (ii) tax identification number;
- 4 of individuals identified under subsection (b).
- 5 (e) When the department determines that the information required
- 6 under subsection (d)(2) is identical for an individual who holds an
- 7 account with a financial institution and an individual against whom a
- 8 levy may be issued by the department or a county treasurer, the
- 9 department or its agents shall provide a notice of the match, in
- 10 compliance with section 4 of this chapter, if action is to be initiated to
- 11 levy or encumber the account.
- 12 (f) This section does not preclude a financial institution from
- 13 exercising its right to:
- 14 (1) charge back or recoup a deposit to an account; or
- 15 (2) set off from an account held by the financial institution in
- 16 which the individual has an interest in any debts owed to the
- 17 financial institution that existed before:
- 18 (A) the state's levy; and
- 19 (B) notification to the financial institution of the levy.
- 20 (g) A financial institution ordered to block or encumber an account
- 21 under this section is entitled to collect its normally scheduled account
- 22 activity fees to maintain the account during the period the account is
- 23 blocked or encumbered.
- 24 (h) All information provided by a financial institution under this
- 25 section is confidential and is available only to the department or its
- 26 agents for use only in levy collection activities.
- 27 (i) A financial institution providing information required under this
- 28 section is not liable for:
- 29 (1) disclosing the required information to the department or the
- 30 child support bureau established by IC 31-25-3-1;
- 31 (2) blocking or surrendering an individual's assets in response to
- 32 a levy imposed under this section by:
- 33 (A) the department; or
- 34 (B) a person or an entity acting on behalf of the department; or
- 35 (3) any other action taken in good faith to comply with this
- 36 section.
- 37 **(j) A person or an entity that is acting on behalf of the**
- 38 **department is not liable for any action taken in good faith to collect**
- 39 **the state's levy under this section unless:**
- 40 **(1) the action is contrary to the department's direction to the**
- 41 **person or entity; or**
- 42 **(2) for information provided under this section, the person or**
- 43 **entity acts with:**
- 44 **(A) deliberate ignorance of the truth or falsity of the**
- 45 **information; or**
- 46 **(B) reckless disregard for the truth or falsity of the**
- 47 **information.**

1        ~~(j)~~ **(k)** The department or its agents shall pay a financial institution  
 2 performing the data match required by this section a reasonable fee, as  
 3 determined by the department, of at least five dollars (\$5) for each levy  
 4 issued to the financial institution.

5        ~~(k)~~ **(l)** This section does not prevent the department or its agents  
 6 from encumbering an obligor's account with a financial institution by  
 7 any other remedy available under the law."

8        Page 4, after line 11, begin a new paragraph and insert:

9        "SECTION 3. IC 22-4-29-14 IS ADDED TO THE INDIANA CODE  
 10 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
 11 UPON PASSAGE]: **Sec. 14. (a) The department shall operate a data  
 12 match system with each financial institution doing business in  
 13 Indiana.**

14        **(b) Each financial institution doing business in Indiana shall  
 15 provide information to the department on all employers:**

16            **(1) that hold one (1) or more accounts with the financial  
 17 institution; and**

18            **(2) that are subject to a warrant issued by the commissioner  
 19 for failure to pay a final assessment for contributions,  
 20 interest, penalties, and any associated collection costs.**

21        **(c) To provide the information required under subsection (b), a  
 22 financial institution shall do one (1) of the following:**

23            **(1) Identify employers by comparing records maintained by  
 24 the financial institution with records provided by the  
 25 department by:**

26                    **(A) name; and**

27                    **(B) either:**

28                            **(i) Social Security number; or**

29                            **(ii) federal tax identification number.**

30            **(2) Comply with IC 31-25-4-31(c)(2). The child support  
 31 bureau established by IC 31-25-3-1 shall regularly make  
 32 reports submitted under IC 31-25-4-31(c)(2) accessible to the  
 33 department or its agents for use only in the collection of  
 34 unpaid final assessments described in subsection (b)(2).**

35        **(d) The information required under subsection (b) must:**

36            **(1) be provided on a quarterly basis; and**

37            **(2) include:**

38                    **(A) the name;**

39                    **(B) the address of record; and**

40                    **(C) either:**

41                            **(i) the Social Security number; or**

42                            **(ii) the federal tax identification number;**

43        **of the employers identified under subsection (b).**

44        **(e) When the department determines that the information  
 45 required under subsection (d)(2) is identical for an employer that  
 46 holds an account with a financial institution and an employer that  
 47 is subject to a warrant issued by the commissioner for failure to  
 48 pay a final assessment for contributions, interest, penalties, and**

1 any associated collection costs, the department or its agents shall  
 2 provide a notice of the match to the financial institution if action is  
 3 to be initiated to issue a warrant to levy upon or encumber the  
 4 account.

5 (f) This section does not preclude a financial institution from  
 6 exercising its right to:

- 7 (1) charge back or recoup a deposit to an account; or
- 8 (2) set off from an account held by the financial institution in  
 9 which the employer has an interest in any debts owed to the  
 10 financial institution that existed before:

11 (A) the department's warrant; and

12 (B) notification to the financial institution of the  
 13 department's warrant.

14 (g) A financial institution ordered to block or encumber an  
 15 account under this section is entitled to collect its normally  
 16 scheduled account activity fees to maintain the account during the  
 17 period the account is blocked or encumbered.

18 (h) All information provided by a financial institution under this  
 19 section is confidential and is available only to the department or its  
 20 agents for use only in the collection of unpaid final assessments  
 21 described in subsection (b)(2).

22 (i) A financial institution providing information required under  
 23 this section is not liable for:

- 24 (1) disclosing the required information to the department or  
 25 the child support bureau established by IC 31-25-3-1;
- 26 (2) blocking or surrendering an individual's assets in response  
 27 to a levy imposed under this section by:

28 (A) the department; or

29 (B) a person or an entity acting on behalf of the  
 30 department; or

- 31 (3) any other action taken in good faith to comply with this  
 32 section.

33 (j) A person or an entity that is acting on behalf of the  
 34 department is not liable for any action taken under this section in  
 35 good faith to collect unpaid final assessments described in  
 36 subsection (b)(2) unless:

- 37 (1) the action is contrary to the department's direction to the  
 38 person or entity; or

- 39 (2) for information provided under this section, the person or  
 40 entity acts with:

41 (A) deliberate ignorance of the truth or falsity of the  
 42 information; or

43 (B) reckless disregard for the truth or falsity of the  
 44 information.

45 (k) The department or its agents shall pay a financial institution  
 46 performing the data match required by this section a reasonable  
 47 fee, as determined by the department, of at least five dollars (\$5)  
 48 for each warrant issued to the financial institution.

**(l) This section does not prevent the department or its agents from encumbering an employer's account with a financial institution by any other remedy available under the law.**

SECTION 4. IC 22-4-31-6, AS AMENDED BY P.L.108-2006, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) If, after due notice, any employing unit defaults in the payment of any contributions or other money payments required by this article, the amount due may be collected by civil action in the name of the state of Indiana on the relation of the department. Such civil action is not to be considered as the exclusive method for collection of the contributions or money payments but is in addition to the method provided in IC 22-4-29-2 through ~~IC 22-4-29-12~~ **IC 22-4-29-14** and is to be brought only in such cases as the department may deem advisable in the interest of necessity and convenience.

(b) Unless the employing unit prevails in a civil action brought under this chapter, the court may award costs, including reasonable attorney's fees, incurred by the state in bringing the action.

SECTION 5. IC 31-25-4-31, AS AMENDED BY P.L.103-2007, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) The bureau shall operate a data match system with each financial institution doing business in Indiana.

(b) Each financial institution doing business in Indiana shall provide information to the bureau on all noncustodial parents who:

- (1) hold one (1) or more accounts with the financial institution; and
- (2) are delinquent.

(c) In order to provide the information required under subsection (b), a financial institution shall either:

- (1) identify noncustodial parents by comparing records maintained by the financial institution with records provided by the bureau by:

- (A) name; and
  - (B) either Social Security number or tax identification number;
- or

- (2) submit to the bureau a report, in a form satisfactory to the bureau, that includes the Social Security number or tax identification number of each individual maintaining an account at the financial institution. **The reports submitted under this subdivision must be accessible to:**

- (A) the department of state revenue established by IC 6-8.1-2-1 or its agents for use only in tax judgment and levy administration described in IC 6-8.1-8-8.7(b)(2); or
- (B) the department of workforce development established by IC 22-4.1-2-1 or its agents for use only in the collection of unpaid final assessments described in IC 22-4-29-14(b)(2).

(d) The information required under subsection (b) must:

(1) be provided on a quarterly basis; and

(2) include the:

(A) name;

(B) address of record; and

(C) either the Social Security number or tax identification number;

of an individual identified under subsection (b).

(e) When the bureau has determined that the information required under subsection (d)(2) is identical for an individual who holds an account with a financial institution and an individual whose name appears on the quarterly list prepared by the bureau under section 30 of this chapter, the bureau shall provide a notice of the match if action is to be initiated to block or encumber the account by establishing a lien for child support payment to the:

(1) individual; and

(2) financial institution holding the account.

(f) The notice under section (e) must inform the individual that:

(1) the individual's account in a financial institution is subject to a child support lien; and

(2) the individual may file an appeal with the bureau within twenty (20) days after the date the notice was issued.

(g) The bureau shall hold a hearing under 470 IAC 1-4. The department's final action following a hearing held under this subsection is subject to judicial review as provided in 470 IAC 1-4.

(h) The state's lien on assets under this section is subordinate to any prior lien perfected by:

(1) a financial institution; or

(2) another legitimate lien holder.

(i) A lien issued under this section remains in effect until the earliest of:

(1) one hundred twenty (120) days after issuance;

(2) the date the asset on which the lien is issued is surrendered; or

(3) the date the lien is released by an action of the bureau.

(j) This section does not preclude a financial institution from exercising its right to:

(1) charge back or recoup a deposit to an account; or

(2) set off from an account held by the financial institution in which the noncustodial parent has an interest in any debts owed to the financial institution that existed before:

(A) the state's lien; and

(B) notification to the financial institution of the child support delinquency.

(k) A financial institution ordered to block or encumber an account under this section is entitled to collect its normally scheduled account activity fees to maintain the account during the period the account is blocked or encumbered.

(l) All information provided by a financial institution under this section is confidential and is available only to the bureau or its agents for use only in child support enforcement activities.

(m) A financial institution providing information required under this section is not liable for:

(1) disclosing the required information to the bureau, **the department of state revenue established by IC 6-8.1-2-1, or the department of workforce development established by IC 22-4.1-2-1;**

(2) blocking or surrendering any of an individual's assets in response to a lien imposed by:

(A) the bureau under this section; or

(B) a person or entity acting on behalf of the bureau; or

(3) any other action taken in good faith to comply with this section.

(n) The department shall pay a financial institution performing the data match required by this section a reasonable fee for providing the service that does not exceed the actual cost incurred by the financial institution.

(o) This section does not prevent the bureau or its agents from encumbering an obligor's account with a financial institution by any other remedy available for the enforcement of a child support order.

SECTION 6. IC 34-30-2-16.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16.8. IC 6-8.1-8-8.7 (Concerning actions taken to collect tax judgments and levies).**

SECTION 7. IC 34-30-2-86.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 86.7. IC 22-4-29-14 (Concerning actions taken to collect unemployment insurance assessments).**

SECTION 8. **An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1219 as printed February 22, 2008.)

---

Senator WEATHERWAX